

By: Klick

H.B. No. 4250

A BILL TO BE ENTITLED

AN ACT

1
2 relating to licensing requirements for certain child-care
3 facilities.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 42.041(b), Human Resources Code, as
6 amended by Chapters 244 (H.B. 871) and 317 (H.B. 7), Acts of the
7 85th Legislature, Regular Session, 2017, is reenacted and amended
8 to read as follows:

9 (b) This section does not apply to:

10 (1) a state-operated facility;

11 (2) an agency foster home;

12 (3) a facility that is operated in connection with a
13 shopping center, business, religious organization, or
14 establishment where children are cared for during short periods
15 while parents or persons responsible for the children are attending
16 religious services, shopping, or engaging in other activities,
17 including retreats or classes for religious instruction, on or near
18 the premises, that does not advertise as a child-care facility or
19 day-care center, and that informs parents that it is not licensed by
20 the state;

21 (4) a school or class for religious instruction that
22 does not last longer than two weeks and is conducted by a religious
23 organization during the summer months;

24 (5) a youth camp licensed by the Department of State

1 Health Services;

2 (6) a facility licensed, operated, certified, or
3 registered by another state agency;

4 (7) an educational facility that is accredited by the
5 Texas Education Agency, the Southern Association of Colleges and
6 Schools, or an accreditation body that is a member of the Texas
7 Private School Accreditation Commission and that operates
8 primarily for educational purposes for prekindergarten and above, a
9 before-school or after-school program operated directly by an
10 accredited educational facility, or a before-school or
11 after-school program operated by another entity under contract with
12 the educational facility, if the Texas Education Agency, the
13 Southern Association of Colleges and Schools, or the other
14 accreditation body, as applicable, has approved the curriculum
15 content of the before-school or after-school program operated under
16 the contract;

17 (8) an educational facility that operates solely for
18 educational purposes for prekindergarten through at least grade
19 two, that does not provide custodial care for more than one hour
20 during the hours before or after the customary school day, and that
21 is a member of an organization that promulgates, publishes, and
22 requires compliance with health, safety, fire, and sanitation
23 standards equal to standards required by state, municipal, and
24 county codes;

25 (9) a kindergarten or preschool educational program
26 that is operated as part of a public school or a private school
27 accredited by the Texas Education Agency, that offers educational

1 programs through grade six, and that does not provide custodial
2 care during the hours before or after the customary school day;

3 (10) a family home, whether registered or listed;

4 (11) an educational facility that is integral to and
5 inseparable from its sponsoring religious organization, or an
6 educational facility, that:

7 (A) does [~~both of which do~~] not provide custodial
8 care for more than two hours maximum per day;

9 (B) [~~and that~~] offers an educational program in
10 one or more of the following:

11 (i) prekindergarten through at least grade
12 three;

13 (ii) [~~and~~] elementary grades; [~~and~~] or

14 (iii) secondary grades; and

15 (C) is a member of an organization that
16 promulgates, publishes, and requires compliance with health,
17 safety, fire, and sanitation standards equal to standards required
18 by state, municipal, and county codes;

19 (12) an emergency shelter facility, other than a
20 facility that would otherwise require a license as a child-care
21 facility under this section, that provides shelter or care to a
22 minor and the minor's child or children, if any, under Section
23 [32.201](#), Family Code, if the facility:

24 (A) is currently under a contract with a state or
25 federal agency; or

26 (B) meets the requirements listed under Section
27 51.005(b)(3);

1 (13) a juvenile detention facility certified under
2 Section 51.12, Family Code, a juvenile correctional facility
3 certified under Section 51.125, Family Code, a juvenile facility
4 providing services solely for the Texas Juvenile Justice
5 Department, or any other correctional facility for children
6 operated or regulated by another state agency or by a political
7 subdivision of the state;

8 (14) an elementary-age (ages 5-13) recreation program
9 operated by a municipality provided the governing body of the
10 municipality annually adopts standards of care by ordinance after a
11 public hearing for such programs, that such standards are provided
12 to the parents of each program participant, and that the ordinances
13 shall include, at a minimum, staffing ratios, minimum staff
14 qualifications, minimum facility, health, and safety standards,
15 and mechanisms for monitoring and enforcing the adopted local
16 standards; and further provided that parents be informed that the
17 program is not licensed by the state and the program may not be
18 advertised as a child-care facility;

19 (15) an annual youth camp held in a municipality with a
20 population of more than 1.5 million that operates for not more than
21 three months and that has been operated for at least 10 years by a
22 nonprofit organization that provides care for the homeless;

23 (16) a food distribution program that:

24 (A) serves an evening meal to children two years
25 of age or older; and

26 (B) is operated by a nonprofit food bank in a
27 nonprofit, religious, or educational facility for not more than two

1 hours a day on regular business days;

2 (17) a child-care facility that operates for less than
3 three consecutive weeks and less than 40 days in a period of 12
4 months;

5 (18) a program:

6 (A) in which a child receives direct instruction
7 in a single skill, talent, ability, expertise, or proficiency;

8 (B) that does not provide services or offerings
9 that are not directly related to the single talent, ability,
10 expertise, or proficiency;

11 (C) that does not advertise or otherwise
12 represent that the program is a child-care facility, day-care
13 center, or licensed before-school or after-school program or that
14 the program offers child-care services;

15 (D) that informs the parent or guardian:

16 (i) that the program is not licensed by the
17 state; and

18 (ii) about the physical risks a child may
19 face while participating in the program; ~~and~~

20 (E) that conducts background checks for all
21 program employees and volunteers who work with children in the
22 program using information that is obtained from the Department of
23 Public Safety; and

24 (F) that is a member of an organization that
25 promulgates, publishes, and requires compliance with health,
26 safety, fire, and sanitation standards equal to standards required
27 by state, municipal, and county codes;

1 (19) an elementary-age (ages 5-13) recreation program
2 that:

3 (A) adopts standards of care, including
4 standards relating to staff ratios, staff training, health, and
5 safety;

6 (B) provides a mechanism for monitoring and
7 enforcing the standards and receiving complaints from parents of
8 enrolled children;

9 (C) does not advertise as or otherwise represent
10 the program as a child-care facility, day-care center, or licensed
11 before-school or after-school program or that the program offers
12 child-care services;

13 (D) informs parents that the program is not
14 licensed by the state;

15 (E) is organized as a nonprofit organization or
16 is located on the premises of a participant's residence;

17 (F) does not accept any remuneration other than a
18 nominal annual membership fee;

19 (G) does not solicit donations as compensation or
20 payment for any good or service provided as part of the program; and

21 (H) conducts background checks for all program
22 employees and volunteers who work with children in the program
23 using information that is obtained from the Department of Public
24 Safety;

25 (20) a living arrangement in a caretaker's home
26 involving one or more children or a sibling group, excluding
27 children who are related to the caretaker, in which the caretaker:

1 (A) had a prior relationship with the child or
2 sibling group or other family members of the child or sibling group;

3 (B) does not care for more than one unrelated
4 child or sibling group;

5 (C) does not receive compensation or solicit
6 donations for the care of the child or sibling group; and

7 (D) has a written agreement with the parent to
8 care for the child or sibling group;

9 (21) a living arrangement in a caretaker's home
10 involving one or more children or a sibling group, excluding
11 children who are related to the caretaker, in which:

12 (A) the department is the managing conservator of
13 the child or sibling group;

14 (B) the department placed the child or sibling
15 group in the caretaker's home; and

16 (C) the caretaker had a long-standing and
17 significant relationship with the child or sibling group before the
18 child or sibling group was placed with the caretaker;

19 (22) a living arrangement in a caretaker's home
20 involving one or more children or a sibling group, excluding
21 children who are related to the caretaker, in which the child is in
22 the United States on a time-limited visa under the sponsorship of
23 the caretaker or of a sponsoring organization;

24 (23) a facility operated by a nonprofit organization
25 that:

26 (A) does not otherwise operate as a child-care
27 facility that is required to be licensed under this section;

1 (B) provides emergency shelter and care for not
2 more than 15 days to children 13 years of age or older but younger
3 than 18 years of age who are victims of human trafficking alleged
4 under Section 20A.02, Penal Code;

5 (C) is located in a municipality with a
6 population of at least 600,000 that is in a county on an
7 international border; and

8 (D) meets one of the following criteria:

9 (i) is licensed by, or operates under an
10 agreement with, a state or federal agency to provide shelter and
11 care to children; or

12 (ii) meets the eligibility requirements for
13 a contract under Section 51.005(b)(3); ~~[or]~~

14 (24) a facility that provides respite care exclusively
15 for a local mental health authority under a contract with the local
16 mental health authority; or

17 (25) ~~[(24)]~~ a living arrangement in a caretaker's home
18 involving one or more children or a sibling group in which the
19 caretaker:

20 (A) has a written authorization agreement under
21 Chapter 34, Family Code, with the parent of each child or sibling
22 group to care for each child or sibling group;

23 (B) does not care for more than six children,
24 excluding children who are related to the caretaker; and

25 (C) does not receive compensation for caring for
26 any child or sibling group.

27 SECTION 2. To the extent of any conflict, this Act prevails

H.B. No. 4250

1 over another Act of the 86th Legislature, Regular Session, 2019,
2 relating to nonsubstantive additions to and corrections in enacted
3 codes.

4 SECTION 3. This Act takes effect September 1, 2019.